

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

|                              |   |                                  |
|------------------------------|---|----------------------------------|
| <b>ERIC DRAKE,</b>           | § |                                  |
| <b>PLAINTIFF,</b>            | § |                                  |
|                              | § |                                  |
| <b>v.</b>                    | § | <b>CASE NO. 3:20-CV-581-M-BK</b> |
|                              | § |                                  |
| <b>WALMART INC., ET AL.,</b> | § |                                  |
| <b>DEFENDANTS.</b>           | § |                                  |

**ORDER REGARDING MOTION TO PROCEED IN FORMA PAUPERIS ON APPEAL**

Before the Court is Plaintiff's March 10, 2021 motion for leave to proceed *in forma pauperis* on appeal.

Considering the record in this case, the Court hereby finds and orders:

- ☐ The motion for leave to proceed *in forma pauperis* on appeal is GRANTED. 28 U.S.C. § 1915.
  
- ☒ The motion for leave to proceed *in forma pauperis* on appeal [Doc. 19] is DENIED for the following reasons:
  - ☐ The plaintiff is not a pauper.
  - ☐ The plaintiff has not complied with the requirements of 28 U.S.C. § 1915(a)(1) or (a)(2).
  - ☒ Pursuant to 28 U.S.C. § 1915(a)(3) and FED. R. APP. P. 24(a)(3), the court certifies that the appeal is not taken in good faith. In support of this finding, the court adopts and incorporates by reference this Court's order filed on March 8, 2021 accepting the findings, conclusions, and recommendation of the United States Magistrate Judge. *See Baugh v. Taylor*, 117 F.3d 197, 202 n.21 (5th Cir. 1997). Based on the above order, the Court finds that the appeal presents no legal points of arguable merit and is therefore frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983).

**Although this appeal is certified as not taken in good faith under 28 U.S.C. § 1915(a)(3) and FED. R. APP. P. 24(a)(3), the plaintiff may challenge this finding by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within 30 days of this Order.**

**SO ORDERED.**

April 12, 2021.

  
BARBARA M. G. LYNN  
CHIEF JUDGE